

IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

In re: §  
§  
JENKO CONTRACTORS, INC., § Case No. 09-40216  
§  
Debtor. § Chapter 7  
§

**ORDER GRANTING CNH CAPITAL AMERICA LLC'S MOTION FOR RELIEF  
FROM THE AUTOMATIC STAY AS TO ONE NEW TEKAUCHI EXCAVATOR  
AND ONE USED NEW HOLLAND BACKHOE**

On April 29, 2009, CNH Capital America LLC's Motion for Relief from the Automatic Stay as to One New Tekauchi Excavator and One Used New Holland Backhoe (the "Motion") was filed in the above-referenced case. The Court finds that the Motion was properly served pursuant to the Federal and Local Rules of Bankruptcy Procedure and that it contained the appropriate fifteen (15)-day negative notice language, pursuant to LBR 4001, which directed any party opposed to the granting of the relief sought by the Motion to file a written response within fifteen days or the Motion would be deemed by the Court to be unopposed. The Court finds that no objection or other written response to the Motion has been timely filed by any party. Due to the failure of any party to file a timely written response, the allegations contained in the Motion stand unopposed and, therefore, the Court finds that good cause exists for the entry of the following order.

IT IS THEREFORE ORDERED that CNH Capital America LLC's Motion for Relief from the Automatic Stay as to One New Tekauchi Excavator and One Used New Holland Backhoe is hereby GRANTED so as to authorize Movant to foreclose its security interests and take possession of, market and sell the Equipment which is the subject of the Motion.

IT IS FURTHER ORDERED that, since the Motion was unopposed by any party, the ten (10)-day stay period otherwise imposed by Fed. R. Bankr. P. 4001(3) shall not be applicable to this Order.

Signed on 05/20/2009

Brenda T. Rhoades MD  
HONORABLE BRENDA T. RHOADES,  
UNITED STATES BANKRUPTCY JUDGE